

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

FOR COURT USE ONLY

☐ *Attorney for Debtor(s)*  
☐ *Debtor(s) appearing without an attorney*

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA - \_\_\_\_\_ DIVISION**

In re:

CASE NO.:  
CHAPTER: 13

**DEBTOR'S MOTION TO AVOID JUNIOR  
LIEN ON PRINCIPAL RESIDENCE  
[11 U.S.C. § 506(d)]**

DATE:  
TIME:  
COURTROOM:  
PLACE:

Debtor(s).

**NAME OF CREDITOR HOLDING JUNIOR LIEN ("Respondent"):** \_\_\_\_\_

**A. Property at Issue:** Debtor moves to avoid the junior deed of trust, mortgage or other encumbrance (hereinafter, "Lien") encumbering the following real property (hereinafter, the "Property"), which is the principal residence of debtor(s).

Street Address: \_\_\_\_\_  
Unit Number: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Legal description or document recording number (including county of recording):

☐ See attached page.

**B. Case History:**

1. A voluntary petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was filed on: \_\_\_\_\_
2. ☐ An Order of Conversion to Chapter 13 was entered on *(specify date)*:

**C. Grounds for Avoidance of Junior Lien:**

1. As of \_\_\_\_\_, the Property is subject to the following liens in the amounts specified securing the debt against the Property, which the debtor seeks to have treated as indicated:
  - i. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.
  - ii. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ ☐ is ☐ is not to be avoided;
  - iii. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ ☐ is ☐ is not to be avoided;
- ☐ See attached page for additional lien(s).

2. As of \_\_\_\_\_, Property is worth no more than \$ \_\_\_\_\_.

a. As a result, Respondent's Lien encumbering the Property is wholly unsecured.

**3. Evidence in Support of Motion:**

- a. ☐ The amount of the lien identified in paragraph C(1)(i) is based on \_\_\_\_\_, attached hereto and identified as Exhibit \_\_\_\_.
- b. ☐ The amount of the lien identified in paragraph C(1)(ii) is based on \_\_\_\_\_, attached hereto and identified as Exhibit \_\_\_\_.
- c. ☐ The amount of the lien identified in paragraph C(1)(iii) is based on \_\_\_\_\_, attached hereto and identified as Exhibit \_\_\_\_.
- d. ☐ The relative priority of the liens encumbering the Property is established by evidence attached as Exhibit \_\_\_\_.
- e. ☐ The value of the Property from paragraph C(2) is based on \_\_\_\_\_, attached as
- f. ☐ Exhibit \_\_\_\_\_.
- g. ☐ Debtor submits the attached Declaration(s).
- h. ☐ Other evidence *(specify)*: \_\_\_\_\_

4. WHEREFORE, Debtor prays that this Court issue an Order granting the following relief:

- a. That the Property is valued at no more than \$\_\_\_\_\_.
- b. That no payments are to be made on the secured claim of the Respondent, and regular mortgage maintenance payments are not to be made, before the Debtor's ☐ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.
- c. That the Respondent's claim on the junior position lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim.
- d. That the avoidance of the Respondent's junior lien is contingent upon: The Debtor's ☐ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.
- e. That the Respondent shall retain its lien in the junior position for the full amount due under the corresponding note and lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the United States Bankruptcy Code, or if the Property is sold or refinanced prior to the Debtor's ☐ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.
- f. That in the event that the holder of the first position lien or any senior lien on the Property forecloses on its interest and extinguishes the Respondent's lien rights prior to the Debtor's completion of the chapter 13 plan and receipt of a chapter 13 discharge, the Respondent's lien shall attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale.

5. ☐ See attached continuation page for additional provisions.

Dated: \_\_\_\_\_

Respectfully submitted,

By: \_\_\_\_\_  
*Signature of Debtor or Attorney for Debtor*

Name: \_\_\_\_\_  
*Type Name of Debtor or Attorney for Debtor*

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document described as **MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner indicated below:

**I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On \_\_\_\_\_, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

☐ Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

On \_\_\_\_\_, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type Name

\_\_\_\_\_  
Signature

**II. SERVED BY U.S. MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

(Attached page to Proof of Service-please include any additional or alternative addresses and attach additional pages if needed)  
(Certified Mail required for service on a national bank.)

Name of 1st Lien Holder & Address	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 1st Lien Holder- Agent for Service of Process	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 1st Lien Holder – Servicing Agent	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

Name of 2nd Lien Holder & Address	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 2nd Lien Holder- Agent for Service of Process	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 2nd Lien Holder – Servicing Agent	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

Name of 3rd Lien Holder & Address	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 3rd Lien Holder- Agent for Service of Process	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Name of 3rd Lien Holder – Servicing Agent	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

Alternative/Additional Address	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Alternative/Additional Address	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____